

REMARKS

The Applicants request reconsideration of the rejection.

Claims 12 and 20-26 remain pending.

Claims 12 and 26 stand rejected under 35 U.S.C. §112, first paragraph, as being based on a disclosure which is not enabling. Specifically, the Examiner requires recitation of a measurement mechanism. Further, the Examiner requires recitation of a measuring unit and an information storing section. Claim 12 has been amended to recite a measuring unit that measures reactions in reaction vessels, and an information storing section that stores identified results identified by an identifying unit that identifies the sample in a sample container on the basis of information read by an information reader. A structural and functional description of these newly-added features is shown, for example, beginning on page 17 of the present specification with respect to Fig. 4. Where no specific functional block is illustrated or described for any claimed structural elements, it may be assumed that a person of ordinary skill in the automatic analyzer art can supply the details of such functional blocks.

Claims 12 and 20-26 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for the reasons set forth on pages 4-5 of the Office Action. The indefiniteness mentioned by the Examiner is addressed by the foregoing amendments to claim 12, and particularly with the recital that the controller controls the information reader to perform the reading of information recorded in the information recording medium prior to a first sample dispensing operation of the sample dispensing mechanism, controls the identifying unit to perform the identifying of the sample in the sample container, controls the information storing section to

perform the storing of identified results identified by the identifying unit, controls the information reader to again perform the reading of information recorded in the information recording medium just before or after a second sample dispensing operation of the sample dispensing mechanism, and controls the identifying unit to again perform the identifying of a sample in the sample container, wherein the controller further checks whether or not the sample to be dispensed or already dispensed by the sample dispensing mechanism in the second sample dispensing operation is a sample whose information has been previously read by the information reader prior to the first sample dispensing operation. Thus, the asserted circular limitation is removed from claim 12, and the information storing section is recited in claim 12. The Applicants refer the Examiner to page 3, lines 3-22; page 6, line 20 – page 7, line 18; page 10, lines 3-24; page 13, line 18 – page 14, line 16; and page 17, line 11 – page 18, line 15.

With respect to claim 21, the sample information storing section is now recited in claim 12, providing the proper antecedence required by the Examiner. In addition, claim 23 is amended to more clearly recite the moving locus of the probe of the sample dispensing mechanism.

Claims 12, 20-22 and 24-25 stand rejected under 35 U.S.C. §102(b) as being anticipated by Yamazaki et al., U.S. Patent No. 5,827,479 (Yamazaki). The Applicants traverse as follows.

As noted, claim 12 recites an automatic analyzer in which the controller controls the identifying unit to perform the identifying of a sample in the sample container, controls the information storing section to perform the storing of identified results, and controls the information reader to again perform the reading of

information recorded in the information recording medium just before or after the second dispensing operation of the sample dispensing mechanism. The controller controls the identifying unit to again perform the identifying of the sample, and checks whether the sample to be dispensed or already dispensed by the sample dispensing mechanism in the second sample dispensing operation is a sample whose information has been previously read by the information reader prior to the first sample dispensing operation.

In contrast, Yamazaki discloses random readings of the sample identifier, with no check respecting two dispensing operations to ensure that the same sample is used. Because Yamazaki does not perform the check now described in claim 12, Yamazaki does not anticipate the presently-claimed invention.

Claims 20-22 and 24-25 inherit the patentable features of claim 12, and are thus patentable as well. As such, the separate patentability of these dependent claims need not be argued at this time.

However, the Applicants wish to point out that dependent claim 22 recites a cover configured to prevent a sample container from being taken out of the sample container disk from the time information recorded on the information recording medium attached to the sample container has again been read (that is, the second reading) immediately before the dispensation of the sample by the sample dispensing mechanism, until the sample dispensing mechanism has dispensed the sample from the sample container. Yamazaki does not disclose a cover preventing the sample container from being taken out of the sample container disk at any time, and specifically not during the time set forth in claim 22. The lid 11 slidably covering

the opening 10 of cover 9 is freely opened at any time by the operator, and thus does not prevent the sample container from being taken out.

In addition, dependent claim 25, derived from claim 22 via claim 24, recites a movement detector for detecting the movement of the cover, wherein the controller controls the sample dispensing mechanism so as not to dispense a sample when the movement detector detects the movement of the cover. An example of this cover is shown by reference numeral 19 in Fig. 2. Yamazaki's cover may be moved freely by the operator, and there is no movement detector for detecting such movement. Accordingly, no controller disclosed by Yamazaki controls the sample dispensing mechanism so as not to dispense a sample in accordance with a movement detector detecting the movement of the cover.

Claims 23 and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamazaki in view of Ishizawa, U.S. Patent No. 6,413,475 (Ishizawa). These claims are dependent from claim 12 and thus inherit its patentable features. In addition, claims 23 and 26 are derived from claim 22, which has separate patentability as argued above. Accordingly, these claims are also patentable.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, the Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to

the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. KAS-204).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

/Daniel J. Stanger/
Daniel J. Stanger
Registration No. 32,846

DJS/sdb
(703) 684-1120